IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

MFA.No. 1027 of 2001()

OPMV.2193/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR
.....

APPELLANT:PETITIONER

T.K.GOPALAKRISHNAN,
S/O.KURUMBAN,
THILAKURINJI HOUSE,
VELAMPUR,
MAZHUVANNOOR NORTH P.O.

BY ADV. SRI.T.K.KOSHY
SRI.CEASAR V.PILLA

RESPONDENTS:RESPONDENTS
----

1. K.V.THANKACHAN,
KUDILUMARI HOUSE,
VELAMPUR,
MAZHUVANNOOR NORTH P.O.

2. THE ORIENTAL INSURANCE CO. LTD.,
M.G.ROAD, ERNAKULAM,
KOCHI.

BY ADV. SRI.C.R.VINOD KUMAR FOR R1
SRI.P.V.JYOTHI PRASAD FOR R2

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC, JJ.
==========
M.F.A.NO.1027 OF 2001
==========
Dated this the 8th day of March, 2007

J U D G M E N T

Antony Dominic, J.

The claimant is the appellant. The accident occurred on 26/3/95. When the claimant was travelling in an autorickshaw driven by the 1st respondent through a public road, the autorickshaw overturned and the claimant sustained serious injuries. He is stated to have been hospitalised for more than 30 days and suffered serious injuries including fracture. In the claim petition filed, appellant claimed Rs.2,25,000/-, limited his claim to Rs.1,20,000/- but he was granted a total compensation of Rs.24,536/- with 9% interest. Dissatisfied with the compensation awarded, he has come up with this appeal.

2. Counsel for the appellant invited our attention to Exhibit A10 certificate which disclosed that the appellant was absent from duties for 148 days. He would contend that despite the long absence from duty, appellant was granted only Rs.5,000/-. On going through the award, we notice that the

Tribunal restricted the amount only for the reason that the appellant had limited his claim to Rs.5,000/- Taking into account the fact that the claimant had to be absent from his job for 148 days, we feel that although the claimant had restricted his claim, the Tribunal should have taken a realistic approach and was not justified in limiting the compensation. In our view, Rs.10,000/- would have been a reasonable compensation towards his loss of earning for a period of 148 days.

3. Towards loss of amenities in life also, although the claimant had claimed Rs.50,000/-, without assigning any reason, Tribunal has granted only Rs.3,000/-, which also in our view is reasonably law. Taking into account the injuries sustained, we are inclined to grant an enhancement by Rs.5,000/- by granting additional compensation of Rs.2,000/- and we do so. Similarly, towards the bystanders expenses also, nothing has been granted and the reasons assigned thereof are also unsupportable. Taking reasonable view, Rs.1,500/- is granted towards this item as well. Thus, we modify the award enhancing compensation by Rs.8,500/- in addition to Rs.24,536/- granted by the Tribunal. The

enhanced compensation will carry interest at the rate of 7% from the date of petition till the date of realisation.

The award will stand modified as above.

P.R.RAMAN, JUDGE.

ANTONY DOMINIC, JUDGE.

Rp